

Paying for Your Dog's Bites

Occasionally parents seek legal assistance concerning serious bites their child received from a neighbor's dog. Injuries typically are profuse bleeding, a great deal of physical pain, continuing to have nightmares about dogs, and permanent scarring. Where a significant number of dog owners reside, as they do in military housing, dog bites are bound to happen.

According to the Monterey County SPCA, "Any dog in the right circumstances might bite. However, the selection and treatment of the dog may reduce its likelihood of biting." Why these attacks occur may not be fully understood by owners. Some breeds bite humans more than others. Within breeds temperaments vary. Also according to experts, dogs can be encouraged to bite, dogs can be trained to bite, but they cannot be trained to never bite. "And children are most often the victims", said CPT Becky Callihan, Chief, Veterinary Services, Lemoore NAS Branch and supervisor of the Ord vet facility. "They bite when they feel threatened, afraid, excited, irritated, when they protect their territory, if they don't know a person, and when their chase response is triggered." Also, dogs have a "pack mentality" and, under the right circumstances, may bite out of the drive to be dominant, according to CPT Callihan.

Since any dog may bite, dog owners, as well as potential victims, ought to be aware of the legal consequences of a dog's harmful behavior.

The California dog bite law specifically establishes the dog owner's liability for injuries inflicted by the owner's dog without a requirement to prove the owner did anything wrong. It doesn't matter if the attack occurs in a public or private place. It doesn't matter whether the dog was ever previously vicious or if the owner knew of the dog's viciousness. In fact, if a defendant owner tries to introduce evidence at court that Rover was gentle and friendly, the judge will likely not allow it because the evidence is irrelevant. In other words, the old "one-free-bite" rule, giving the dog (or more precisely, the owner), a second chance before facing liability, is not the law. California's strict liability statute is not unique, and it covers non-bite incidents such as scratching, tripping, or knocking over.

The parties can settle on the damages out of court. If a fair settlement is not an option, the victim of a dog bite or the parent on behalf of a minor has one year to bring a lawsuit for compensation related to medical and ambulance expenses, pain and suffering, and time lost from work. The suit can be brought without attorneys in small claims court where claims are limited

to a maximum of \$5,000. If the claim is for more than \$5,000 and the victim doesn't want to scale it back, the proper court is Superior Court.

A dog owner may be able to assert a defense. If the victim acted in a way to excite, alarm, or disturb the dog, the court may find the victim contributed to the injuries received. Another defense is that the victim knowingly took the risk of being injured by the dog. Also, the statute will generally not allow a trespasser to recover. If the victim is a young child, the success of these defenses may vary.

Sometimes a dog's actions cause personal or property damage without ever biting. The law imposes liability for non-bite damages too. In any case, unique circumstances may always affect the legal outcome. Also, the dog owner's homeowner's or renter's insurance policy may cover both bite and non-bite damages even if the injury or damage occurs away from the owner's property.

Aside from civil liability, there may be other serious consequences if a particular dog has a tendency to bite. California law requires the owner of a dog which has bitten someone to take steps to prevent it from happening again. If the dog bites again, any person, the city attorney, or district attorney may sue to force the owner to remove the danger to other persons presented by the animal. The court can have the animal removed from the area or destroyed. The dog may be declared "potentially dangerous" or "vicious" and the owner can be fined up to \$1,000 for violation of laws concerning ownership and control of such a dog. Letting an aggressive dog run loose around children could bring a fine or even a jail sentence. The intent of these laws is to protect the public, especially children, from dogs known to pose a danger to people and to crack down on irresponsible dog owners.

The Presidio of Monterey Regulation 40-3, dated 15 April 1997, parallels California law and, in fact, adopts it for application to the POM and the Ord Military Community. POM Reg 40-3 provides for responsibilities of animal owners and procedures for animal control. The owner of a dog which has bitten or scratched a person must comply with quarantine procedures including presenting the dog to the Veterinary Treatment Facility, building 4380 Parker Flats Road. An animal involved in one unprovoked, vicious bite or two provoked bite incidents must be removed from the installation. Violations of animal control procedures may result in prosecution before a US Magistrate, military disciplinary action, and eviction from housing.

Not every dog will bite. When one does, promptly report it to the POM police, 242-5634 (POM), 242-7851 (Ord Military Community). Information on dog bite prevention is available from the Ord vet facility (242-7718), Monterey County SPCA (373-2631), animal control, and law enforcement offices.

Both dog bite victims and dog owners are eligible for legal advice at the Legal Assistance Office, although each party must see different attorneys. Appointments can be made at the legal

office located at building 275, Presidio of Monterey or by calling 242-5083/5084. A copy of POM Regulation 40-3 is available for reading at the Legal Assistance Office.

Legal Assistance